BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

IN THE MATTER OF	)	
	)	
IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT COMPETITIVE BIDDING	)	**PP DOCKET NO. 93-253**

TO: THE FEDERAL COMMUNICATIONS COMMISSION

REPLY COMMENTS OF SOUTHWESTERN BELL CORPORATION

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SUMMARY

Southwestern Bell Corporation ("SBC") supports the use of oral, sequential auctions of Personal Communications Services ("PCS") licenses, arrayed geographically in a series beginning on the west coast. This process should begin with the Major Trading Area ("MTA") licenses, auctioning one band at a time, and then continuing to the Basic Trading Area ("BTA") licenses, also auctioned by band, sequentially, in a geographic arrangement. This simple proposal will be easy for the Commission to administer and easy for the parties to understand. Therefore, it also will allow all parties to plan intelligently and maximize the use of their capital, ensuring that the party which values that spectrum the most will be the most likely to win the license. Most importantly, it will allow the economic aggregation of licenses by prospective licensees without advantaging any particular combination of licenses. SBC continues to oppose any set of licenses awarded in a bundle which might have the effect of a nationwide license.

SBC opposes an electronic bidding system. While theoretically interesting, it appears too complex and expensive to implement in the timeframes allotted to PCS auctions. Its complexity raises a host of unanswered questions which can only delay implementation of this long-awaited service offering. Other types of simultaneous

bidding are too cumbersome and confusing to serve the Commission's objectives in holding auctions for spectrum licenses.

SBC continues to maintain that BETRS, TMRS and intermediate links in an existing common carrier system should not be subject to auction, but cellular fill-in licenses and licenses for ESMR and wide area SMR should be competitively bid. The Commission should adopt a mechanism for adjudicating disputes over whether a spectrum license is subject to auctioning under the statute and the Commission's regulations.

SBC vigorously opposes the attempts of some to re-litigate eligibility for participation in the PCS market in this proceeding. The place for such issues is a Petition for Reconsideration of the Commission's Orders in the PCS dockets, not this proceeding which focuses on implementation of competitive bidding processes. SBC particularly resists the suggestion that cellular carriers with some arbitrarily set market share be barred from PCS markets. Such an exclusion would be contrary to previous well-reasoned decisions on public policy and would deprive PCS customers of the benefit of well-financed, experienced providers.

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To: The Federal Communications Commission

REPLY COMMENTS OF SOUTHWESTERN BELL CORPORATION

On behalf of itself and its operating subsidiaries, Southwestern Bell Corporation ("SBC") offers these comments in reply to the Initial Comments filed herein.

I. SERVICES WHICH QUALIFY FOR AUCTIONING.

A. Intermediate Link Microwave, TMRS And BETRS Should Not Be Subject To Competitive Bidding.

Point-to-point microwave when used as an "intermediate link" of an end-to-end subscriber service should not be subject to auction. The initial comments voiced nearly universal support of this proposition. *See, e.g., Comments of California Microwave, Inc.* at pp. 3-7; *Alcatel Network Systems, Inc.* at pp. 2, 3; *Ameritech* at pp. 3, 4; *Comcast* at pp. 14, 15; etc.[1] Most commentors noted, as did SBC in its *Initial Comments*, that such spectrum is not accessed directly by the subscriber, the applications for such use of the spectrum are rarely contested and the impact upon the carrier of subjecting such internal

[1]All subsequent references to initial comments will be made by company name and page number.

communications links to competitive bidding could be significant. Exempting intermediate links from auctioning allows incumbent providers to continue to provide the quality of service required by the Commission's rules and meet the build-out and other performance requirements of those rules. Additionally, where an intermediate microwave link is part of the "backbone" network of a local exchange carrier, it is particularly important that the Commission exercise its discretion not to subject this spectrum to auction to facilitate the carrier's obligation to provide universal service at the lowest possible price.[2]

The Initial Comments strongly supported the Commission's tentative conclusions (*NPRM* at § 29) that point-to-point microwave service provided directly to end users for compensation should be subject to competitive bidding. *See, e.g., Comments of Sprint* at pp. 21-22. As Sprint pointed out, the logical construct which the Commission should use for determining whether to subject a service to auctioning is two-fold: first, it should be required only for "new" commercial mobile services and, second, it should be required only where the

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[2]Additionally, as Sprint notes, it is inappropriate to subject the component parts of a service to competitive bidding. Since point-to-point microwave is a component of a LEC, IXC or mobile service network, and it is "consumed" in the internal communications of the underlying carrier, competitive bidding for the spectrum is inappropriate. *Sprint* at pp. 22-23. *See also* letter from John D. Dingell, Chairman of House Committee on Energy and Commerce, to FCC Chairman Quello, dated November 15, 1993. Inasmuch as the links referenced in paras. 28 and 29 of the *NPRM* are incidental to the provision of a different, and not necessarily spectrum-based, service, subjecting these licenses to competitive bidding would not be appropriate.

spectrum is used directly by the subscriber. Limiting application of auctioning to spectrum which is accessed directly by the subscriber for the transmission of communications is required directly by the language of the statute. 47 U.S.C. § 309(j)(2)(A)(ii).

SBC agrees that Telephone Maintenance Radio Service ("TMRS") and Basic Exchange Telecommunications Radio Service ("BETRS") should not be subject to competitive bidding. TMRS is not accessed directly by subscribers and is not provided to subscribers for compensation.[3] Accordingly, it does not meet the statutory requisite for auctioning. Similarly, BETRS and other rural radio services do not technically qualify for auctioning because these services are not accessed directly by subscribers and compensation is not generally received from subscribers for the transmission of such signals. For example, BETRS customers are treated just like other local exchange service customers, no additional or special rate is charged for the wireless aspect of the service. *Citizens Utl. Co.* at pp. 7-11. Further, it is not in the public interest for such services to be subjected to auctioning. Many of these licenses will not qualify for an auction because only one application for its use is likely to be filed.

Moreover, BETRS is designed by the Commission to improve the quality of service in rural areas. It would be

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[3]This position was also supported by National Rural Telecom Association (p. 13) and Pacific and Nevada Bell (pp. 17, 18).

ironic indeed if the Budget Reconciliation Act, with its goal of rapid deployment of innovative services in rural areas, results instead in a diminution of the quality of basic telephone service provided in those areas. Yet subjecting BETRS to competitive bidding might have just this effect, for it inevitably would increase the cost of this alternative by increasing the costs of local loops which BETRS technology minimizes. USTA at pp. 4, 5.

B. Cellular Fill-In Licenses Should Be Auctioned.

While many individual applicants for cellular fill-in licenses contend that such licenses should not be auctioned, a number of parties (including SBC) disagree. *See, e.g., CTIA* at 31, *McCaw* at pp. 30-31, *Bell Atlantic PC, Inc.* at pp. 22, 23. Sprint is correct in noting that such auctions are not required because the applications currently pending before the Commission were filed before the effective date of the competitive bidding legislation, but this does not mean that the Commission is without authority to use an auction. The advantages of an auction are as apparent for such licenses as they are for Personal Communications Services ("PCS"). An auction more effectively will insure that the party who values the spectrum most and is most likely to build out the license will be successful in obtaining it. An auction will provide needed federal revenues.

The argument by some commentors that they "relied" to their detriment on use of a lottery is not persuasive. Any such reliance was minimal indeed, given the insignificant amount of

effort required to apply for a lottery. This is particularly true if, as SBC suggests, the Commission adopts the suggestion of BellSouth (*Comments* at p. 45 and *First Cellular of Maryland, Inc.* at p. 2) that eligibility for the fill-in licenses be limited to those who filed applications prior to July 26, 1993. In that event, all existing applicants may still participate in the process to obtain the fill-in licenses for which they submitted applications. Thus, their "reliance" upon an opportunity to obtain the license will not be detrimental.

C. The Commission Should Adopt A Method For Adjudicating Disputes Over Auction Eligibility.

The Cellular Settlement Groups argue that cellular fill-in licenses should not be auctioned if they are the subject of a full market settlement. SBC agrees that the FCC should adopt a timeframe for deciding whether a specific license or set of licenses is properly subject to auction pursuant to statute and the Commission's regulations. SBC suggested in its *Initial Comments* that this determination could be made in the first 45 days after the Public Notice is issued. Within 15 days of issuing a Public Notice that a spectrum block will be up for auction, applications to remove the spectrum from auctioning for reasons of procedural defects could be entertained. If the Commission announced its decision in the next 15 days, parties would have 15 more days to decide whether to apply to bid.

The situation urged by the Cellular Settlement Group for supporting such a dispute resolution process, however, is totally erroneous. As illustrated on the map attached hereto as

Exhibit 1, the Cellular Settlement Groups have applied for an area asserted to be "unserved." This fill-in area, however, does not exist. Every application filed for Dallas 9B (including the applications of each party to the Cellular Settlement Group) is defective because the area sought is already being served by the Dallas SMSA Limited Partnership, the licensee of Dallas 9B, and was being served by that licensee at the time the applications were filed. (*See* Exhibit 1, copy of System Update Map for Dallas 9B filed January 1993, and sample of applicant's map showing boxed and shaded area sought as already served by licensee). Dallas 9B, therefore, is not an appropriate subject for fill-in.

SBC does not oppose the exemption of fair market settlements from the auction process, but the position of Cellular Settlement Groups does highlight the fact that the auction structure must provide a timely opportunity for an incumbent carrier to oppose the application on the basis that the area is not subject to auction or an applicant is unqualified.

D. ESMR Licenses Should Be Subject To Auction.

As SBC noted in its *Initial Comments*, spectrum used for ESMR licenses should be subject to the competitive bidding process. Such licenses will be used primarily for services rendered to end users for compensation. The applications already filed for such licenses anticipate exclusive use for the spectrum allocated and the Commission has indicated its intention that

such services will compete with cellular and PCS. Accordingly, the statute requires that these licenses be auctioned.[4]

While Comcast argues that surrendered or forfeited SMR licenses should not be auctioned,[5] its comments are silent with regard to the new enhanced SMR service.[6] Such new service, of course, would include those additional licenses for which Nextel has applied but which have not yet been granted.

E. Automatic Vehicle Monitoring Licenses Should Not Be Auctioned.

SBC emphasized in its Initial Comments that Automatic Vehicle Monitoring (AVM) spectrum should not be subject to auction because the spectrum use will not be exclusive and because it will not be accessed by subscribers directly to transmit and receive communications in return for compensation. The initial comments of several other parties indicate general

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[4]Initial commentors generally agreeing include *Pacific Telesis* at p. 19, *GTE* at p. 17, *McCaw* at p. 30.

[5]The rationale for this exemption is unclear. Such licenses are not reserved for public use and their utility for commercial applications suggests that they also should return a portion of their value to the public. 47 U.S.C. § 309(j)(6).

[6]American Mobile Telecommunications Association, Inc. at pp. 9-11 argues that wide area 800 MHz SMRs are not appropriate for competitive bidding because they are a reconfiguration of existing systems. While this is correct for currently held licenses, it does not apply to the fallow spectrum which does exist. This fallow spectrum could be utilized for the Commission's newly proposed wide area SMR or enhanced SMR service, both of which are new services. Likewise, as with cellular, an existing service, the Commission has the authority to auction unused spectrum for an existing service.

agreement with this conclusion.[7] In fact, as one party noted, even if co-channel separation is granted, the statute would exempt the spectrum from competitive bidding. Co-channel separation and the resulting protection from interference with the AVM signals does not mean that the spectrum will be subject to exclusive use by the licensee. Rather, it is likely that the spectrum will be subject to governmental and ISM use. Accordingly, AVM licenses will not qualify under the statutory requirements for mutual exclusivity of use and therefore should not be subject to auction.

II. AUCTION DESIGN

A. Oral Bidding Should Be The Commission's Exclusive Auction Method.

Most commenting parties agree that oral bidding is the simplest, safest and most efficient method for granting most spectrum licenses.[8] This conclusion is particularly applicable to the licenses to be auctioned for PCS. Analysis of alternative proposals only supports the efficacy of oral bidding. For example, oral bidding completely negates the necessity for heightened security measures required for sealed written bids (*e.g.*, *BellSouth* at 4, 5), and for the electronic bidding supported by NTIA. (*See* § C.3 *infra*.)

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[7] *Hughes Transportation Management Systems* at p. 3; *Pacific Telesis* at p. 12.

[8] *See generally, Comments of Cellular Communications, Inc.* at 1, *Comcast Corporation* at p. 3; *Duncan, Weinberg, Miller & Rembroke, P.C.* at p. 3; *GTE* at p.5; *McCaw* at pp. 5, 6; *Minnesota Equal Access Network Services* at p. 2; *National Association of Black-Owned Broadcasters* at pp. 6-7; *NABER* at p. 6.

Oral bidding also negates any need for calculation of reserve prices and supplemental rounds of bidding. PacTel admits that its plan for multiple rounds of sealed bids is designed to mimic the salutary effect of ascending bidding which occurs in an oral auction. As SBC discussed at length in its Initial Comments, the oral auction process allows each bidder to assimilate and utilise information from others regarding the estimated value of the asset being auctioned. Contrary to the assertions of PageMart, Inc., therefore, oral bidding and not sealed bidding tends to equalize the amount of information possessed by each bidder. This access to information minimizes the impact of disparate access to information among bidders prior to the auction.

1. The PacTel Plan Should Be Rejected.

The PacTel proposal for simultaneous, multiple rounds of sealed bidding suffers from all the deficiencies of sealed bidding while adding an enormous burden on the Commission's resources. PacTel's principal reason for proposing this plan is apparently that it facilitates the creation of multiple combinations of licenses. *See Initial Comments* at pp. 3-4, Attachment. Sequential auctions of spectrum arrayed geographically, using oral bidding as suggested by SBC, will accomplish the same purpose, with less complexity and without the disadvantages of sealed bidding. By auctioning each area within a spectrum block, moving geographically across the country, combinations of licenses can be fashioned. The time between the

auction of each geographic spectrum block should allow individual companies and members of a consortium to re-analyze and re-define their strategy. Additionally, the SBC method provides a piece of information which the PacTel method may not: by participating in live, real time oral auctions, the possibility of a competitive aggregation which threatens one's own strategic plan will be more obvious. This might result in a bidder increasing the price he is willing to pay for a particular area to insure a particular geographic cluster is obtained. Such a result is not possible under PacTel's proposal.

PacTel argues that its plan gives the advantages of unlimited combinatorial bidding and a structure which allows time for analysis and review. But PacTel's proposal would create the need for significant time delays due to the auctions of multiple licenses simultaneously. This complexity does not exist under SBC's proposal. Moreover, SBC suggests that the theoretical concerns asserted by PacTel are not as compelling as they may seem. Whether a single corporation or a consortium, prospective bidders will have to create an elaborate bidding strategies prior to the opening of the auction. Budgets with strategic alternatives must be settled well before the auction begins. Auctioning licenses one at a time in a geographic sequence would eliminate the need for significant renegotiation of such prior arrangements.

Further, the possibility of economic aggregation of licenses is available through an oral auction, as SBC explained

in its *Initial Comments* at p. 29. What is not possible is to accommodate the administrative details of the PacTel proposal. Suppose that the Commission receives 1000 bids in round one for 1000 different combinations of MTAs and BTAs.[9] The Commission must set up some method for receiving 1000 simultaneous filings. Then it must sort all the submissions to ascertain the highest bidder for each of the 2565 licenses.[10] Once the "highest" bid for each license/combination is assessed, some mechanism to notify the public will be necessary, in sufficient time to prepare the next bid (suggested by PacTel to follow within three days). These problems would arise with each round.

Moreover, since each MTA will be auctioned simultaneously in PacTel's plan, bidders would find their strategic planning much more complex. Each participant must evaluate the possibility that the most desired MTA will complete its auction before the next most valuable MTA action is complete.

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[9]This is not a wild conjecture. The service list for this proceeding consists of over 235 parties, plus another 50-75 parties expressing some interest. PacTel's proposal is designed to allow each of them to express its own view of the "ideal" PCS territory.

[10]The simplest view of this process assumes that bidders are required to state an individual bid for each license, even if one wishes to acquire several related licenses. This process would lose the advantage of being able to express the aggregated value, which PacTel touts as an advantage of its plan. The more complicated view, that bidders are allowed to state a single bid price for each and every combination bid, raises the possible number of bids to be evaluated exponentially. Also, it would be nearly impossible to evaluate who had won any bid, since the number of comparisons required to assess the bids would be the number of bids times the number of combinations bid.

Too, the composition of the combinations desired is likely to shift from one round to the next as some MTAs or BTAs are awarded, making the strategic analysis of the next step even more difficult.

The PacTel design is flawed in another, significant way: it keeps the bidder's identity secret. While PacTel acknowledges the utility of sharing among bidders information regarding the estimated value of the spectrum, it completely ignores the need to determine which party has placed that value on the spectrum. This information is important for at least two reasons: first, it affects other bidders' ability to assess the accuracy of the valuation of the spectrum and, second, it is critical to alerting other bidders that an aggregation of licenses is under way. Without this information, the remaining bidders cannot act to acquire otherwise less significant licenses to create a geographic aggregation or an alliance to compete. In short, the PacTel proposal does not meet the primary objective posited by its expert, Dr. McAfee: an improved information flow.

B. Combinatorial Bidding Is Contrary To Congress' Stated Goals, Anti-Competitive And Should Be Abandoned.

1. Combinatorial Bidding Is Contrary To The Commission's And Congress' Stated Purpose.

Many commentors agree with Southwestern Bell that combinatorial bidding is not necessary and can lead to significant distortions of the PCS marketplace, especially if the Commission adopts the type of combinatorial bidding proposed in the *NPRM*. *See, e.g., GTE* at pp. 6-9; *McCaw* at pp. 7-14; *Comcast*

Corporation at pp. 4-7, *Dial Page* at pp. 2-3, *Rural Cellular Association* at p. 9. Though the Commission candidly admits that this type of bidding is designed to allow the possibility of a national PCS license, such a purpose is contrary to recent decisions of the Commission. In the *Second Report and Order* in the PCS docket, the FCC rejected nationwide licensing in favor of creating 102 Major Trading Area ("MTAs") licenses and over 2000 Basic Trading Area ("BTAs") licenses. The enunciated purpose for the creation of these regional and local licenses was to facilitate diversity of licensees, which should lead to innovation and competitive pricing. *See Second Report and Order* at III, C. Congress specifically delineated diversity and innovation as goals to guide the creation of the competitive bidding process. See 47 U.S.C. § 309(j)(3). A PCS license of nationwide scope thus is inconsistent with the Commission's earlier conclusions and contrary to the clearly stated intent of Congress. *See Rural Cellular Association* at p. 9, *McCaw* at pp. 7-14. Either of these reasons should mandate rejection of the combinatorial bidding process outlined by the Commission in the *NPRM*. Moreover, the combinatorial bidding process only adds complexity to an otherwise difficult process. *See Initial Comments of BellSouth* at pp. 6-11.

2. Nationwide Licenses Would Not Foster Competition.

SBC explained at length in its Initial Comments why any type of nationwide license or set of licenses for PCS is inappropriate. Among the many reasons echoed by other commentors

in this docket, such an aggregation of licenses creates both an enormous competitive advantage for the successful bidder and a potential for market power abuse by that bidder. *See Callcell Wireless, Inc.* at p. 16, *GTE* at pp. 6-9. The competitive advantage of the assertion that a company hold a nationwide license (particularly if it is the only nationwide license) should be obvious. As Nextel points out, this is true regardless of how the aggregation occurs.[11]

A single nationwide set of licenses also will stymie technical diversity by creating a *de facto* standard. This may retard, if not eliminate, the development of more efficient and technically superior arrangements. Likewise, without any incentive to escalate the pace of innovation, interoperability of PCS equipment is likely to stagnate.[12]

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[11]This advantage only points out the acute necessity for the Commission to clarify that regardless of aggregation of licenses, build-out and performance requirements apply to each area licensed. As SBC insisted in its Initial Comments, the Commission's performance requirements should not change just because a single company holds multiple licenses. Otherwise, many parts of the United States will experience significant delays in receiving the service. *See AT&T* at p. 5. Such a result is contrary to a public policy advocating that all Americans benefit from the new personal communications services. *See also Dial Page* at pp. 2-3. AT&T is right when it points out that another unnecessary consequence of a combination bid for all 51 MTA licenses is that it may result in a resale of individual unwanted licenses at a later date. *AT&T* at p. 5.

[12]SBC does suggest that if the Commission does adopt combinatorial bidding, it should allow such bids to aggregate all BTAs which are located within a single MTA. This type of aggregation would allow the holder to compete more effectively with the licensee for the MTA, thereby assuring the purposes of the legislation and to maximize the probability of innovative applications for service. *See APC* at p. 2, *National Telephone Cooperative Association* at n.20.

3. Combinatorial Bidding Is Not Needed To Stimulate Economic Aggregation.

In any event, forcing an uneconomic aggregation of licenses to the national level is unnecessary. An oral bidding process will allow aggregation of licenses which may be in an individual or group of bidders' economic interests. *See Cellular Communications, Inc.* at p. 9. As the auction continues and bidders continue to see or create opportunities for appropriate aggregations, nothing in the oral bidding process will prevent this from occurring. On the other hand, the lack of a combinatorial process does not create any additional pressures or disadvantages for those who wish to aggregate licenses. In other words, the oral bidding process will allow the assignment of the spectrum to the bidder or bidders who place the maximum economic value on both the individual license and their aggregation, as is appropriate.

C. Bidding Sequence.

1. The Commission Should Auction All Licenses In A Spectrum Band, Arranged Geographically.

Virtually all commentors noted the significance of the bidding sequence, though they disagreed vigorously as to the appropriate sequence. SBC maintains that its proposal, however, satisfies most parties' needs and is the most efficacious.[13] SBC proposed that the Commission should auction each spectrum band

[13]The *Comments of the National Association of Minority Telecommunications Executives and Companies* ("NAMTEC") (p. 6) generally supported SBC's proposal for bidding sequence.

separately, beginning with the MTAs.[14] The progression of the auction should be geographic, preferably from west to east (although the reverse would be acceptable). Finally and most importantly, SBC suggested that if the Commission uses any sealed bidding, these bids should be opened first, before the oral auction begins. On this latter point, there was significant agreement. For example, CTIA pointed out that if the sealed bids were opened first, this would equalize the information position of both sealed bidders and non-sealed bidders. *See, CTIA Comments* at p. 16 and *Cellular Communications, Inc.* at p. 6. Additionally, opening the sealed bids first would encourage those submitting sealed bids to participate in the oral bidding process, to preserve their interest in specific licenses. This encouraged participation would stimulate competition in the oral bidding, increasing both federal revenues generated and the likelihood that the spectrum would be awarded to the party which places the highest economic value upon it.

A number of parties supported auctions by spectrum band but arranging the licenses by descending order of population within the spectrum band. Telocator and AT&T proposed that such an order will facilitate regional aggregation. *Telocator* at p. 4; *AT&T* at p. 9. SBC supports the purpose enunciated but suggests that a map approach to the spectrum licenses better achieves it. It is difficult to conceive how bidding on New York, Los Angeles, Chicago, San Francisco, Detroit, Charlotte, Dallas, Boston,

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[14]*McCaw* at pp. 15-16 agrees with a block-by-block approach.

Philadelphia, and Washington/Baltimore (the top 10 markets, in order of population) facilitates regional aggregation. Oral bidding, on the other hand, clearly allows geographic bidding and logical, economic aggregation. Auctioning by descending order of population auction means that one starts on the east coast (New York), then switches to the west coast (Los Angeles). Auctioning licenses which are contiguous will allow licensees to determine whether or not they can achieve the aggregation they seek and to resort to alternative plans if such does not appear to be the case.

2. MTAs Should Be Auctioned Before BTAs.

Other commentors suggested the Commission may wish to auction all of the BTA licenses before it holds the MTA license auctions, to acquire some experience. Nextel suggests that this "experiment" with BTAs will provide useful input to the FCC in conducting the MTA auction. *Nextel* at p. 8. The timeframes of the legislation with regard to PCS auctions simply do not allow the Commission this luxury. Moreover, it is simply unnecessary to experiment with BTA licenses or any other licenses if the straight-forward oral bidding process is adopted. While the Commission has little experience with such auctions, they are relatively common in other areas and their operation is relatively easy to understand. If necessary, the Commission could hire a consultant to assist with the auctions, thereby eliminating the need for experimentation.

Beginning with the BTA licenses, moreover, may diminish their value. BTA licenses may come to have more value if they are awarded after an MTA license, either because they may be used as an adjunct to an MTA or because they are aggregated to mimic an MTA. If the Commission needs to experiment with auction procedures, it would be better to begin with narrowband PCS and cellular fill-in licenses, than to distort the logical progression of broadband PCS licenses. *See, McCaw* at p. 15, *AT&T* at p. 10.

3. The FCC Should Not Hold Simultaneous Auctions Of Bandwidth Or Geography.

Bell Atlantic Personal Communications ("BAPC") proposes that the Commission auction both MTA bands together. A number of parties including SBC, disagree, favoring instead auctions of each band separately. *See generally Minority PCS Coalition* at p. 7, *NAMTEC* at p. 6, *Paging Network* at pp. 17-18, *Wisconsin Wireless Communications Corp.* at p. 1. Simultaneous auctions of the MTA licenses would make it impossible to determine on which band one should bid and how much to bid, since no company is allowed to hold both MTA licenses. Moreover, one MTA license and its associated spectrum assignment may be preferable to the other in the same geographic area, due to the presence of incumbent microwave users which must be relocated. On the other hand, companies may be willing to default to their second choice if their first choice is not available or is too expensive. Simultaneous bidding would not allow such fall-back positions to be activated. As a result, simultaneous bidding may have the

effect of forcing a bidder to choose a single band on which to bid. If, however, bands are auctioned sequentially, bidders are more likely to bid on each band.

BAPC's proposal that one allow the high bidder to pick which MTA license it wishes does not solve the dilemma of how much one should bid in the first place. Moreover, BAPC's notion that the "second highest bid" wins the "other" MTA license is not workable. The term "second highest bid" has no meaning in an oral auction. Indeed, it may not be possible in an oral auction to determine who the second highest bidder is. For example, if five companies are bidding on a license and one makes a bid that is not increased, which of the remaining bidders has the second highest bid? Nor does the second highest bid, if it can be determined, necessarily equate to the second highest value placed on that MTA in that bandwidth. Therefore, this proposal does not deliver all of the economic efficiencies which the Commission hopes to achieve by oral auctioning.

Like the Commission, a number of commentors are fascinated by the possibility of some kind of simultaneous auction. In addition to the BAPC proposal above, BellSouth, NTIA and PacTel suggest other forms of simultaneous bidding. Of course, if the Commission allowed each bidder to design the limits of its proposed licenses, this also would give the participants more flexibility. The Commission rejected a plan that would allow unlimited combinations of bids, however, despite its flexibility, because it would be to impossible administer.

The same can be said for the simultaneous auctions, particularly the electronic version proposed by NTIA.[15] It should be obvious that simultaneous auctions of licenses are not feasible without enormous electronic capability. If, for example, all MTAs are auctioned at the same time, it would be impossible for an individual bidder to figure out manually what bid to make, and when, to stay within this budget.

As for the electronic system proposed by NTIA, while it may have merit for later applications, the timeframes available to the FCC make it impossible to implement for the auctioning of broadband PCS. Broadband PCS is simply too important an event for an experiment. The simple fact that as much as $10 billion in Federal revenue may be generated from PCS license auctions creates an enormous incentive to design a system which is as easy as possible to administer and presents the fewest opportunities for security problems. An electronic bidding system will not meet these criteria in the timeframe required. What would the Commission do if some of the communication links failed? What is the remedy if registered bidders are unable to establish communications with the bidding system? How will the Commission verify such claims? Will the Commission re-auction the spectrum in this event? Would the Commission be liable to potential

[15]The complexities of an electronic bidding system are obvious. If one supposes for example, that 1,000 bidders participate in the auctions of the 2,565 broadband PCS licenses (no doubt a fairly modest estimate of participation), the possibility of designing a system which could relay all this information to all bidders in the timeframe allowed by the Budget Reconciliation Act is nearly impossible to contemplate.